

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO

EASTERN GATEWAY COMMUNITY)	
COLLEGE,)	
)	CASE NO. 2:22-cv-03326-SDM-CMV
<i>Plaintiff,</i>)	
)	
v.)	
)	
MIGUEL CARDONA, et al.,)	
)	
<i>Defendants.</i>)	

DECLARATION OF KURT PAWLAK

I, Kurt Pawlak, pursuant to 28 U.S.C. § 1746, hereby declare under penalty of perjury that the following is true and correct:

1. I am over eighteen years of age and have personal knowledge of the matters testified to herein.

2. I am the Associate Vice President of Financial Aid at Eastern Gateway Community College ("EGCC").

3. On August 8, 2022, EGCC received correspondence from the U.S. Department of Education ("ED") placing EGCC on the Heightened Cash Monitoring 2 ("HCM2") method of payment effective immediately. A true and accurate copy of the ED's HCM2 letter was included with Plaintiff's Complaint as Exhibit 7. As detailed in prior pleadings, HCM2 requires EGCC to disburse institutional funds to Pell-eligible students prior to requesting and receiving reimbursement from the ED. As such, EGCC must have institutional funding available to cover initial disbursements to the students enrolled in the Program while it awaits the ED's review and approval of any Pell Grant funds.

4. After reviewing the HCM2 letter and instructions, I scheduled a call with ED's Office of Federal Student Aid (FSA) contacts on or around August 10, 2022 to discuss my questions about the process; Dr. Jeremy Early joined the call. My questions were answered and clarified during this meeting. At no point during this meeting or our subsequent communications did ED indicate that EGCC would be unable to meet the requirements of HCM2. Nor did I ever provide any indication to ED that EGCC could not or would not comply with the HCM2 requirements. ED's September 20, 2022 filing was the first time I learned of ED's position that it does not believe EGCC to be capable of complying with HCM2.

5. Moreover, while ED asked for an estimated timeframe of our submission, ED never provided a deadline by which EGCC must provide the first data submission and request for reimbursement. Nonetheless, my office has made this HCM2 submission a top priority.

6. In order to comply with HCM2, per ED's instructions, EGCC is required to make submissions through the Common Origination and Disbursement (COD) system to ED for each student for which EGCC submits a claim for reimbursement of Pell Grant funds.

7. The required data that must be submitted for each student is extensive, including each student's enrollment status, instructional program, admission criteria used for enrollment, number of clock or credit hours in the program and completed so far, cost of attendance, expected family contribution, certification of satisfactory academic progress (SAP), grade point average, and other individual student data.

8. During this timeframe in which my office began compiling HCM2 data, EGCC also received a request on August 9, 2022 related to ED's ongoing program review, involving the compilation of student data for four award years. EGCC provided the submission on or around

August 24, 2022. The submission I provided to ED in response to this request contained almost 95,000 rows and 19 columns of data.

9. Also during this timeframe, EGCC prepared its Fiscal Operations Report for 2021-22 and Application to Participate for 2023-24 (“FISAP”) submission, with a deadline of September 30, 2022. EGCC timely submitted its FISAP.

10. Despite the other heavy demands on my office from ED in August and September, EGCC compiled its first HCM2 submission on October 4, 2022. EGCC’s submission for 2021-2022 included 518 students; and EGCC’s submission for 2022-2023 included 4,553 students. This submission included 41 columns of data for each student.

11. In total, EGCC’s submission requests reimbursement for approximately \$9 million in Pell Grants related to institutional payments to Pell-eligible students, and \$255,051 in loans, in the 2022-2023 award year. EGCC’s submission also includes reimbursement requests for \$17,790 in 2021-2022 Pell Grants, and \$90,226 in 2021-2022 loans to bring EGCC’s G5 balance to \$0.

12. ED prohibits EGCC from making any supplemental submissions until the current submission is reviewed. Because this process could potentially be held up pending ED’s review, and because ED did not provide EGCC with a deadline for its first submission, EGCC intentionally took care to make this submission substantial, since it is unclear when EGCC will be permitted to make subsequent submissions. This is evidenced by the fact that EGCC began queuing institutional disbursements to students for HCM2 reimbursement in parallel to the above items that were being worked on. EGCC’s first disbursement transaction entered in the queue occurred on 9/1/2022 (2021-2022 award year), with additional batches for the 2021-2022 and 2022-2023 award years added on 9/2, 9/5, 9/19, 9/20, and 9/29.

13. After ED's review and feedback on the October 4 submission (which ED estimates to be approximately 30 days or more), EGCC will submit the requested data for additional students.

14. Student enrollment directly affects EGCC's opportunity to access Pell Grants through HCM2. Reduced enrollment necessarily reduces the number of potentially eligible students in which EGCC can seek reimbursement for Pell Grants.

15. As evidenced by EGCC's significant October 4, 2022 data submission, EGCC fully intends to comply with all requirements of HCM2 in order to access Pell Grant funds for its students.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 4, 2022.

/s/ Kurt Pawlak
Kurt Pawlak